

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

In Re:	)	Chapter 11
	)	Bankruptcy No. 01-01139 (JKF)
W.R. GRACE & CO., <u>et al.</u> , <sup>1</sup>	)	Jointly Administered
	)	Objection Deadline: August 8, 2003 at 4:00 p.m.
Debtors.	)	Hearing Date: September 16 & 17, 2003

**ZONOLITE ATTIC INSULATION CLAIMANTS'**  
**MOTION FOR PARTIAL SUMMARY JUDGMENT**

Zonolite Attic Insulation ("ZAI") Claimants, Marco Barbanti, Ralph Busch, Paul Price, John Prebil, John Szufnarowski, Edward Lindholm, James & Doris McMurchie, Stephen Walsh, and William Harris, through Special Counsel, hereby submit this Motion for Order pursuant to Civil Rule 56(d). In support of this Motion, ZAI Claimants state as follows:

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<sup>1</sup> The Debtors consist of the following 62 entities: W.R. Grace & Co. (f/k/a Grace Specialty Chemicals, Inc.), W.R. Grace & Co.-Conn., A-1 Bit & Tool Co., Inc., Alewife Boston Ltd., Alewife Land Corporation, Amicon, Inc., CB Biomedical, Inc. (f/k/a Circe Biomedical, Inc.), CCHP, Inc., Coalgrace, Inc., Coalgrace II, Inc., Creative Food 'N Fun Company, Darex Puerto Rico, Inc., Del Taco Restaurants, Inc., Dewey and Almy, LLC (f/k/a Dewey and Almy Company), Ecarg, Inc., Five Alewife Boston Ltd., G C Limited partners I, Inc. (f/k/a Grace Cocoa Limited Partners, I, Inc.), G C Management, Inc. (f/k/a Grace Cocoa Management, Inc.), GEC Management Corporation, GN Holdings, Inc., GPC Thomasville Corp., Gloucester New Communities Company, Inc., Grace A-B, Inc., Grace A-B II, Inc., Grace Chemical Company of Cuba, Grace Culinary Systems, Inc., Grace Drilling Company, Grace Energy Corporation, Grace Environmental, Inc., Grace Europe, inc., Grace H-G, Inc., Grace H-G II, Inc., Grace Hotel Services Corporation, Grace International Holdings, Inc. (f/k/a Dearborn International Holdings, Inc.), Grace Offshore Company, Grace PAR Corporation, Grace Petroleum Libya Incorporated, Grace Tarpon Investors, Inc., Grace Ventures Corp., Grace Washington, Inc., W.R. Grace Capital Corporation, W.R. Grace Land Corporation, Gracoal, Inc., Gracoal II, Inc., Guanica-Caribe Land Development Corporation, Hanover Square Corporation, Homco International, Inc., Kootenai Development Company, L B Realty, Inc., Litigation Management, Inc. (f/k/a GHSC Holding, Inc., Grace JVH, Inc., Asbestos Management, Inc.), Monolith Enterprises, Incorporated, Monroe Street, Inc., MRA Holdings, Corp. (f/k/a Nestor-BNA Holdings Corporation), MRA Intermedco, Inc. (f/k/a Nestor-BNA, Inc.), MRA Staffing Systems, Inc. (f/k/a British Nursing Association, Inc.), Remedium Group, Inc. (f/k/a Environmental Liability Management, Inc., E&C Liquidating Corp., Emerson & Cuming, Inc.), Southern Oil, Resin & Fiberglass, Inc., Water Street Corporation, Axial Basin Ranch Company, CC Partners (f/k/a Cross Country Staffing), Hayden-Gulch West Coal Company, and H-G Coal Company.

Preliminary Statement/Background

1. On April 2, 2001 (the "Petition Date"), the Debtors filed voluntary petitions for reorganization under Chapter 11 of the Bankruptcy Code and have continued in the management and operation of their business and property.

2. Following its bankruptcy filing, Grace filed proofs of claim in the name of present ZAI claimants in anticipation of a consolidated "science trial," as to Grace's ZAI property damage liability.

3. On July 22, 2002, Judge Judith Fitzgerald appointed present ZAI counsel as "special counsel" to present ZAI claimants and entered an order setting forth a pretrial discovery and motion practice schedule pertaining to the anticipated "science trial."

4. That Order, as amended, provides that motions for summary judgment by either party are due July 7, 2003. The present motion is made pursuant to that Order.

5. An Order of Partial Summary Judgment declaring that ZAI is contaminated with and releases asbestos advances Grace's reorganization by promoting economical resolution of Grace's ZAI liability under applicable state consumer protection statutes.

6. The factual and legal basis for the present Motion is set forth in Zonolite Attic Insulation Claimants' Memorandum in Support of Motion for Partial Summary Judgment Re: W.R. Grace's Consumer Protection Liability and the Declaration of Darrell W. Scott and accompanying appendices and exhibits.

Relief Sought

7. By this Motion, ZAI Claimants seek an Order of the Court pursuant to FED. R. CIV. P. 56(d) specifying that: 1) there is no material question of fact but that ZAI is

contaminated with asbestos; and 2) there is no material question of fact but that ZAI releases asbestos fibers into the air when disturbed during foreseeable homeowner activities.

Notice

8. Notice of this Motion has been given by facsimile transmission to the Debtors' counsel. The ZAI Claimants' Counsel submits that such notice is adequate and proper.

9. No prior Motion seeking the relief sought herein has been made to this or any other court.

Dated: July 21, 2003.

Respectfully submitted,

By: 

Darrell W. Scott

Darrell W. Scott  
LUKINS & ANNIS, P.S.  
717 W. Sprague, Suite 1600  
Spokane, WA 99201  
Telephone: (509) 455-9555  
Facsimile: (509) 747-2323

Edward J. Westbrook  
Robert M. Turkewitz  
RICHARDSON PATRICK  
WESTBROOK & BRICKMAN LLC  
1037 Chuck Dawley Blvd., Bldg. A  
Mt. Pleasant, SC 29464  
Telephone: (843) 727-6500  
Facsimile: (843) 727-6688

Special Counsel for ZAI Claimants